

# Exhibit 5

**In The Matter Of:**

**CHARLIE THORNTON**

**v.**

**FEDEX GROUND PACKAGE SYSTEM**

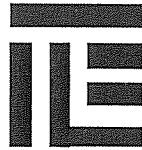
**NO. 2:05-CV-00656-DRB**

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**STAN TROTT**

**April 12, 2006**

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CHARLIE THORNTON  
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT  
April 12, 2006

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IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CIVIL ACTION NO: 2:05-CV-00656-DRB

CHARLIE THORNTON,  
Plaintiff,

vs.

FEDEX GROUND PACKAGE SYSTEM, INC.,  
Defendant.

DEPOSITION  
OF  
STAN TROTT  
12TH DAY OF APRIL, 2006

TAKEN BEFORE: Gary N. Morgan  
Registered Professional  
Reporter and Notary Public

## A P P E A R A N C E S

### FOR THE PLAINTIFF:

Mr. K. Anderson Nelms  
Attorney at Law  
Law Offices of Jay Lewis, LLC  
847 South McDonough Street  
P. O. Box 5059  
Montgomery, Alabama 36104

### FOR THE DEFENDANT:

Mr. Robert K. Spotswood  
Attorney at Law  
Law Offices of Robert K. Spotswood  
Suite 940  
2100 Third Avenue North  
Birmingham, Alabama 35203

### OTHERS PRESENT:

Mr. Charlie Thornton

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## S T I P U L A T I O N

IT IS STIPULATED AND AGREED,

by and between the parties, through their  
respective counsel, that the deposition  
of STAN TROTT may be taken before Gary N.  
Morgan, Commissioner, Registered  
Professional Reporter and Notary Public,  
State at Large;

That the signature to and  
reading of the deposition by the witness  
is waived, the deposition to have the  
same force and effect as if full  
compliance had been had with all laws and  
rules of Court relating to the taking of  
depositions;

That it shall not be necessary  
for any objections to be made by counsel  
to any questions, except as to form or  
leading questions, and that counsel for  
the parties may make objections and  
assign grounds at the time of trial, or  
at the time said deposition is offered in  
evidence, or prior thereto.

## I N D E X

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1 I, Gary N. Morgan, a  
2 Registered Professional Reporter of  
3 Birmingham, Alabama, and a Notary Public  
4 for the State of Alabama at Large, acting  
5 as Commissioner, certify that on this  
6 date, as provided by the Federal Rules of  
7 Civil Procedure of the United States  
8 District Court, and the foregoing  
9 stipulation of counsel, there came before  
10 me at 847 South McDonough Street,  
11 Montgomery, Alabama, on the 12th day of  
12 April, 2006, commencing at 10:09 a.m.,  
13 STAN TROTT, witness in the above cause,  
14 for oral examination, whereupon the  
15 following proceedings were had:

16  
17 STAN TROTT,  
18 being first duly sworn, was examined and  
19 testified as follows:

20  
21 MR. SPOTSWOOD: Andy, before  
22 we get started, I wanted to tell you that  
23 we are producing Mr. Trott as an agent

1 Q. Through the course of this  
2 deposition, and I promise you it's not  
3 going to be a long one, I may refer to  
4 FedEx because I don't work there.  
5 Generically, FedEx is Federal Express to  
6 me.

7 A. Right.

8 Q. If I do that, you may correct  
9 me, you're welcome to, or please  
10 understand that I'm referring  
11 specifically to the Defendant in this  
12 matter, which, again, is FedEx Ground  
13 Package Systems, Inc., and I will ask you  
14 a series of questions. If for any reason  
15 you don't understand my question, please  
16 just say I don't understand, and then,  
17 you can tell me why you don't understand  
18 it or what part of it you don't  
19 understand, and I'll rephrase it, if you  
20 wish. Sometimes I ask very bad  
21 questions.

22 So, I completely understand  
23 why you wouldn't understand, and

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1 and representative of FedEx Ground  
2 Package Systems. I do claim an  
3 attorney-client privilege with respect to  
4 him, and he is obviously offered here  
5 today with respect to the subject matters  
6 that I know are at issue and about which  
7 he has some firsthand knowledge.

8  
9 EXAMINATION BY MR. NELMS:

10 Q. Okay. Mr. Thornton, have you  
11 ever been deposed before?

12 A. Yes.

13 Q. Okay. What was it in  
14 reference to?

15 A. It was an employment issue  
16 about 20 years ago, I'm guessing, with  
17 Roadway Express.

18 Q. Okay. My name is Andy Nelms.  
19 I represent Charlie Thornton, who is the  
20 Plaintiff in this matter, and as you  
21 know, we have a lawsuit pending against  
22 FedEx Ground Package System, Inc.

23 A. Yes.

1 sometimes I have to ask questions in that  
2 legalese that we use or proffered in a  
3 certain way so that it makes sense on  
4 paper. Because everything we say today  
5 Gary is taking down, and it's going to  
6 show up on paper; and you're not here,  
7 and I won't be there when it's read by us  
8 or some third party.

9 So, things like hand motions  
10 and predicates that set up the question  
11 and things like that may not be  
12 completely apparent and sometimes, if you  
13 say huh-uh or uh-uh, that won't show up  
14 as a positive response or a negative  
15 response on paper. So, let's do the best  
16 we can to say yes or no or express it  
17 completely, whatever the answer may be.

18 Also, if I'm speaking and then  
19 you're speaking, which we do all the  
20 time, in common conversations, it's  
21 impossible for Gary to get both of what  
22 we're saying at the same time on paper.

23 A. Right.

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1 Q. And it reads terribly. And I  
2 usually make a pretty good record, but,  
3 you know, everybody's prone to their  
4 screw-ups.

5 Is there any reason why you  
6 would have trouble giving testimony today  
7 in this deposition?

8 A. No.

9 Q. Any physical reason, any  
10 medications, anything like that?

11 A. No. Other than time factor,  
12 you know, a year and a half ago or --

13 Q. Oh, okay.

14 A. I don't want to be  
15 speculative. That sort of depends on  
16 what the question is.

17 Q. Yes, sir. Well, don't be.  
18 Just -- if you remember, you remember it.

19 A. Right.

20 Q. If you don't, you don't. And  
21 I understand that you're retired now.

22 A. Right.

23 Q. Okay. When did you retire?

1 there, to -- quite frankly, when I'm  
2 looking east, maybe Union Springs, but  
3 not -- not Auburn or Tuskegee or  
4 anything -- oh, Tuskegee.

5 Q. Okay. And how long did you  
6 hold that position?

7 A. In Montgomery, two years.

8 Q. Okay.

9 A. I was a senior manager in  
10 Marietta. I actually came in from FedEx  
11 Logistics in 2001 and was brought in  
12 as -- to become a managing director.  
13 I've been a managing director for FedEx  
14 Logistics and for Roadway. I had almost  
15 28, 29 years in the industry, and they  
16 brought me into Marietta to run a -- a  
17 large facility there which, quite frankly  
18 at that time, I was -- I -- I had told  
19 them I really didn't want to go back up  
20 the ladder. So, they were kind of just  
21 preparing me for retirement.

22 Q. I understand. I understand.  
23 Now, you're saying FedEx.

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1 A. March of 2005.

2 Q. Okay. And what was your last  
3 position with FedEx?

4 A. Senior manager of FedEx Ground  
5 here in Montgomery.

6 Q. Okay. And I'll assume that  
7 that that covers more than just the City  
8 of Montgomery. That's a geographical  
9 area?

10 A. Yes.

11 Q. Okay. What is encompassed in  
12 that geographical area?

13 A. Approximately, if you looked  
14 at it, it's about a 50-mile radius all  
15 the way around the City of Montgomery,  
16 give or take.

17 Q. Okay.

18 A. Anywhere as far north as --  
19 well, just below Clanton to Selma and  
20 Demopolis -- or not even Demopolis but  
21 Selma and that area to --

22 Q. Greenville?

23 A. -- Fort Deposit, right about

1 A. FedEx Ground.

2 Q. All right. So, were you  
3 solely employed by this Defendant, FedEx  
4 Ground Package Systems, Inc.?

5 A. From 2001, yes, up to 2005.

6 Q. Okay. And, so I understand,  
7 you were in Montgomery from 2001 until  
8 the day you retired?

9 A. From 2002-ish.

10 Q. So, the entire time that you  
11 worked in Montgomery, you worked for this  
12 Defendant --

13 A. Yes.

14 Q. -- FedEx Ground?

15 A. Yes.

16 Q. And tell me just generally  
17 what kind of job responsibilities and  
18 duties that you had during that last  
19 period of time that you were in  
20 Montgomery.

21 A. As a senior manager in most  
22 all FedEx Ground facilities, you oversee  
23 the day-to-day operations from what we

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1 call the preload, or packages, coming in  
2 to the loading of the packages and, then,  
3 the drivers going out; any type of  
4 customer service issues; periodically  
5 going out with sales to make sales calls;  
6 but mainly, pretty much a hand-on --  
7 hands-on operation-type of position.

8 Small terminal like  
9 Montgomery, two to three direct reports,  
10 fairly small operation with -- with seven  
11 or eight package handlers. So, I mean,  
12 you -- as a senior manager, you're pretty  
13 well over running the -- the entire  
14 facility operationally. Now, in -- in  
15 some particular instances, you have an  
16 operations manager for the Home Delivery  
17 side, and that, where it gets a little  
18 confusing, is Home Delivery is a newly  
19 formed entity of -- of FedEx Ground,  
20 which is now about, maybe, three to four  
21 years old.

22 Q. All right.

23 A. That is -- Home Delivery is.

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1 Q. Home Delivery, you say, is  
2 three to four years old from today's  
3 date?

4 A. Don't hold me to that. Maybe  
5 2000, 2001, they formed Home Delivery.  
6 So, yes, somewhere, give or take, four or  
7 five years.

8 Q. Okay.

9 A. And they would have a -- a --  
10 a -- a operations person solely trained  
11 for Home Delivery within an operation  
12 like Montgomery or -- or -- or a lot of  
13 the other operations. They do have some  
14 sole Home Delivery operations with no  
15 Ground mixed in there, but I just wanted  
16 to make sure you knew, in many instances,  
17 the Ground manager may not oversee the  
18 Home Delivery operation if there's a --  
19 a -- an ops manager there for Home  
20 Delivery.

21 Q. Okay. During the last year,  
22 let's say that you were at FedEx here in  
23 Montgomery, were you in charge of -- was

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1 there a -- was there a Ground delivery  
2 system in place at the Montgomery branch?

3 A. There was a Ground delivery.

4 There was not -- the Home Delivery  
5 operation itself was within the  
6 Montgomery facility. On or about -- and  
7 I think it was even before Charlie. I'm  
8 going to say somewhere around late 2004  
9 the ops manager for Home Delivery was  
10 promoted out of there, and I was kind of  
11 given the responsibility to oversee both  
12 sides and trying to just keep the  
13 operation running until they could get a  
14 full-time Home Delivery guy into the  
15 Montgomery operation.

16 Q. Okay. When you say "Home  
17 Delivery" --

18 A. But technically, yes, I was  
19 over both sides during the time in  
20 question.

21 Q. Okay. When you say "Home  
22 Delivery guy" --

23 A. Yes.

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1 Q. -- is it just --

2 A. There was an ops manager that  
3 used to be there that really ran that  
4 side, and he didn't -- he had a dotted  
5 line to me, but he had a direct line up  
6 to the actual regional manager for Home  
7 Delivery.

8 Q. Okay.

9 A. This can get somewhat  
10 confusing.

11 Q. I think I got it. When you  
12 say "Home Delivery guy," though, you're  
13 just referring to the operations manager?

14 A. Correct.

15 Q. Okay. How many trucks when  
16 you retired were dedicated to sole Home  
17 Delivery purpose?

18 A. I think at the time there's  
19 about seven to eight contracts and about  
20 ten trucks.

21 Q. Okay. And at the time that  
22 you retired, you were basically in charge  
23 of that area of Home Delivery for the



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1 Montgomery operation?

2 A. Yeah.

3 Q. Okay. You hesitated there.

4 A. Well, that -- the -- the --

5 the previous Home Delivery guy, Joe  
6 McConnell, who had been promoted up to  
7 Birmingham, would come back every two or  
8 three weeks, probably not enough, to kind  
9 of make sure the Home Delivery side  
10 was -- was somewhat running. We went --  
11 we had just gone through what we call  
12 peak, which is, you know, from really  
13 about October all the way up through  
14 Christmas, where your -- your volumes  
15 spike 30 to 40 percent. But when I said  
16 that, it's because Home Delivery tried to  
17 make sure that Joe McConnell and/or --  
18 and I don't even know Kent's last name,  
19 had been -- was -- was eventually  
20 assigned to come in and start trying to  
21 run that side of the operation and --  
22 and -- and manage it.

23 So, yes, I was over it, but it

1 yesterday, when I was over going what  
2 happened on the -- on that side, she  
3 actually drove and delivered up to 120  
4 stops up until the day she delivered, but  
5 he had to give up that route. And it was  
6 the -- he oversaw or he had the -- the  
7 Troy contract, and it was actually two  
8 trucks that ran down in that area.

9 We had, in anticipation of  
10 peak, hired what we call temp employees  
11 to come in and try and take care of  
12 the -- the additional packages and, so,  
13 we had probably four or five, six temps  
14 running at that time. So, we had put a  
15 couple of temps -- sometimes we had to  
16 use three or four to deliver down in the  
17 Troy area.

18 Q. Who --

19 A. So, we had an open contract in  
20 Troy going into the -- going into the  
21 January time period.

22 Q. Okay. Were there any other  
23 areas out of the Montgomery operation

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1 was with some help from their point --  
2 their side to try and keep the -- the  
3 administrative side -- there is -- there  
4 is specific training on the Home Delivery  
5 side operationally, systemswise, somewhat  
6 contractually, with their contract that,  
7 quite frankly, I'd not been trained on.

8 Q. In the first quarter of  
9 2005 --

10 A. Yes.

11 Q. -- was there a need in the  
12 Montgomery operation for more Home  
13 Delivery drivers?

14 A. Yes. But when I say "more,"  
15 we had had, going into peak, and I'm  
16 going to say it's probably October-ish, a  
17 contractor who owned -- on the Ground  
18 side who also owned a contract on the  
19 Home Delivery side, and he had just --  
20 his -- his -- his daughter was running  
21 the truck, or driving the truck for him,  
22 and she was pregnant.

23 And -- and I told the guys

1 that you had anticipated would need more  
2 Ground Delivery drivers?

3 A. We were -- we were going  
4 through some growth problems and some  
5 performance problems with a -- with a  
6 driver by the name of Derrick Pettaway.  
7 He had lost his -- he had -- he had two  
8 contracts, and in most instances, was  
9 needing to run anywhere from three trucks  
10 to four trucks a day. He had discharged  
11 or fired his guy that drove for him, and  
12 again, we were having to, due to lack of  
13 area knowledge, give him anywhere from  
14 three to four more additional people to  
15 run his area.

16 So, there was some speculation  
17 on my part, that quite frankly, due to  
18 performance issues and/or just a guy  
19 walking off the job, that we may have  
20 some -- something come open in -- in that  
21 area.

22 Q. Okay. Before I forget it,  
23 let's cover something real quick. You

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1 said that these Ground Delivery drivers  
2 have contracts?

3 A. Yes.

4 Q. And the contracts are directly  
5 with FedEx Ground Package?

6 A. You can have two different  
7 contracts. You can have a FedEx Ground  
8 contract, and if for some instance --  
9 and -- and to a certain degree, we  
10 encouraged it to allow them to grow  
11 and -- and make more money. If -- if  
12 contracts, due to attrition or growth,  
13 became available on the Home Delivery  
14 side, because those guys had been in the  
15 business and -- and pretty well knew what  
16 they were getting into, we would allow  
17 them, if -- if they were doing -- doing a  
18 good job on the Ground side, to -- to get  
19 a Home Delivery contract. Different type  
20 of equipment.

21 In some instances, may --  
22 which was a perfect world, they would  
23 have a Home Delivery driver running in

1 your packages off. You can, in some  
2 instances, drive a little bit faster  
3 versus Home Delivery; nobody's ever at  
4 home and in, especially in the Home  
5 Delivery side, due to lack of density,  
6 some stops may be ten, 15 miles apart.

7 They had different  
8 compensations for the Home Delivery side  
9 versus the Ground side, and I -- you  
10 know, I couldn't go into specifics, but  
11 it was somewhat different in paper  
12 package, paper stop, and -- and then,  
13 some of it was very similar.

14 Q. When you say "paper stop," you  
15 mean like the envelope?

16 A. They would get a certain  
17 dollar per package to deliver, and if  
18 they delivered, you know, five packages  
19 at one stop, they would get paid per  
20 package, but they would only get one stop  
21 dollar amount.

22 Q. Okay. I got you. All right.  
23 And you said there was a difference in

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1 their same area. So, they could flex  
2 packages back and forth to adjust the  
3 volume, and -- and -- and -- and serve  
4 that area a lot better. But they would  
5 sign two different contracts, a Ground  
6 contract for your big step vans and a  
7 Home Delivery contract for the little  
8 delivery vans for Home Delivery, which is  
9 supposed to be, theoretically, mostly  
10 residential areas for Home Delivery.

11 Q. Describe for me how, under  
12 either contract, the operator would be  
13 compensated. I guess what I'm wanting to  
14 know was it --

15 A. There is a different  
16 compensation, and to be honest with you,  
17 that comes out of Pittsburgh as to how  
18 they engineer. It's different equipment.  
19 It's -- it's -- it's -- they -- and on  
20 the Ground side, because it's supposed to  
21 be more density in the area, more  
22 businesses with docks that you back up to  
23 where it's a little bit easier to get

1 the equipment that they used.

2 A. Yeah. And, early on, for the  
3 Home Delivery side, you could see little  
4 Econoline vans running around versus the  
5 big step vans.

6 Q. An Econoline van is just your  
7 regular Ford van that you buy off the lot  
8 at --

9 A. Yeah. You know, it might be a  
10 15-passenger van, but it doesn't have the  
11 seats in it. You know, they set them up  
12 with the shelving and all of that stuff.  
13 As that evolved over the years, they now  
14 give them a smaller type of step van but  
15 still one in which you can deliver a lot  
16 more efficiently in a residential area.  
17 It's not near as big and clunky and  
18 probably gets better miles per gallon,  
19 but it is a different type of equipment.

20 Q. Okay. Did you participate in  
21 a program at the Holiday Inn in January  
22 of 2005?

23 A. Apparently, I did, yes.



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1 Q. Do you not recall it?

2 A. No, I do recall it because I  
3 remember when Char -- I mean, I remember  
4 meeting with Charlie and his wife. There  
5 was a lot of people. I can't remember  
6 how many, but we had a pretty good  
7 reception there. So, that we -- we  
8 periodically put ads in the paper for  
9 informational sessions because -- due to  
10 growth, and I will say the good side of  
11 FedEx, be it Ground or Home Delivery, is  
12 in most instances, a -- they -- they're  
13 in ten, 15, 30 percent growth modes all  
14 the time. There's a constant need to  
15 have potential contractors in the  
16 pipeline so that we can keep up with the  
17 growth.

18 Q. Okay.

19 A. So, we call them informational  
20 sessions. They run an ad in the paper,  
21 and in most instances, it can be for Home  
22 Delivery and/or Ground or both.

23 Q. And what is discussed in the

1 and give a lot of these informational  
2 sessions.

3 In many instances, they have a  
4 standard type of presentation that they  
5 give at these meetings. And -- and  
6 usually, they'll send you a copy of it so  
7 you have kind of a working knowledge just  
8 in case you get caught having to give the  
9 sessions or if somebody comes in and  
10 walks -- walks in off the street and  
11 you're to talk to them kind of about  
12 what's going on in the business, you kind  
13 of stick to that.

14 Q. "Stick to that," what?

15 A. That type of -- what the  
16 presentation would be. You kind of give  
17 the highlights of what they want you to  
18 tell somebody about FedEx and FedEx  
19 Ground.

20 Q. If you can recall, what kind  
21 of qualifications would a potential  
22 contractor need to have?

23 A. Well, I mean, obviously, when

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1 informational sessions?

2 A. Company history as far as  
3 FedEx, the particulars on -- on  
4 contract -- contractually, what you're  
5 looking at, as far as -- they give a --  
6 a -- a synopsis of -- of what potential  
7 pay could be per stops, things like that.  
8 They -- I think they actually have a  
9 video, too, that they show to these guys  
10 in some of the -- in some of the sessions  
11 to just give them a -- an overall view of  
12 what a -- a -- an independent contractor  
13 within the realm of FedEx does.

14 Q. Okay. And is there any  
15 discussion as to what it will take for a  
16 potential contractor to qualify to become  
17 a contractor?

18 A. I would think there is. You  
19 know, in most instances, it -- if there's  
20 not, and I -- and I'm pretty sure there  
21 is an actual -- most all of your regional  
22 HR people who -- who hire -- or we have  
23 actual staff recruiters that go around

1 we look at -- at contractors or potential  
2 contractors, we look at somebody who's --  
3 we prefer to have somebody that has some  
4 type of background in route experience  
5 that would be similar to ours. And --  
6 and, believe it or not, a guy who comes  
7 in off the street, has been driving a --  
8 a -- a tractor/trailer truck for 20  
9 years, doesn't necessarily mean he's a  
10 good match for FedEx because, you know,  
11 he may just be backing trailers to docks.

12 And so, we try and look for  
13 the type of guys who have a -- a good  
14 experience of route -- running routes  
15 and -- and know what it takes to run a  
16 route, and in many instances, if it's  
17 a -- like a Frito-Lay or something like  
18 that, where it's a -- a sales route,  
19 they're under time constraints to get  
20 things done and stock -- you know, we  
21 like that kind of background.

22 In the same respect, we also  
23 try and look for people who have a good

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1 business background. They run some type  
2 of business entity or have had their own  
3 trucks in the past. In some instances,  
4 we have outside contractors for other  
5 companies come in looking to see if they  
6 can put a couple of trucks in to run it.

7 And they -- you know, with  
8 that kind of experience and background of  
9 running their own business, it's a --  
10 it's a combination of driving and route  
11 experience, and -- and we would like to  
12 have somebody who's had some good  
13 business experience running their own  
14 business. Because they do -- I mean, you  
15 are literally running your own business  
16 as an independent contractor.

17 Q. What about the ability to  
18 qualify for a CDL, commercial driver's  
19 license?

20 A. Well, CDLs are not necessarily  
21 required for the step vans. If they've  
22 got one, that's fine. CDLs are -- are  
23 required for tractor/trailer. Now, the

1 to whether these guys have had any  
2 accidents or tickets that they might not  
3 have reported.

4 Q. Would FedEx inquire as to the  
5 driving history of any potential  
6 contractor?

7 A. That's part of -- yes, that's  
8 part of the -- when you -- about two  
9 years ago, and -- and I'm trying to  
10 remember, but I -- I would say  
11 approximately two years ago, they -- they  
12 automated this, but whether it's  
13 automated or manually, part of when  
14 someone comes through the door that wants  
15 to apply for a contractor position, one  
16 of the forms they sign is the one we're  
17 talking about.

18 Automatedwise, if they came in  
19 and we took them to that step, where we  
20 let them fill out the application, it  
21 would -- there was a -- there's an  
22 outside firm that does all of our  
23 background checks for driving and for

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1 DOT requires you every year. Even for --  
2 for the Ground and the Home Delivery  
3 guys, you have to recertify every year  
4 saying how many tickets you have or have  
5 not gotten, whether it's on your personal  
6 vehicle or whatever. But CDLs are not  
7 necessarily a requirement for these --  
8 these pieces of equipment. That's set by  
9 the DOT.

10 Q. What do you mean when you say  
11 they need to "recertify every year?"

12 A. That's a DOT requirement.  
13 Every year, you have to -- you have to --  
14 you give them a form to fill out, and it  
15 says, I hereby certify that I have or  
16 have not, and you have to list any  
17 particular tickets or violations you  
18 might have had while driving, either in  
19 your personal vehicle and/or a FedEx van  
20 or whatever it may be. And that's -- you  
21 have to turn that in, put it in their  
22 file and send it up to Pittsburgh. So,  
23 they've got it, as a matter of record, as

1 criminal history or whatever. So, now,  
2 it's automated, and they do it, and you  
3 get a call as to whether they passed or  
4 not.

5 But, yes, every person that  
6 comes through the door that applies for a  
7 job, we fill out one of those forms, and  
8 you have to send it up to have a -- have  
9 a background check done on them and their  
10 driving history.

11 Q. Is there any physical  
12 examination that needs to be performed?

13 A. They have to go through a DOT  
14 examination at each local facility if --  
15 you know, you don't really want to put a  
16 guy through those DOT physicals because  
17 they're not cheap, if you don't have some  
18 intention of -- of using him either as a  
19 temp or possible future employment.

20 Q. What about financial  
21 qualifications? Are there any  
22 requirements in that regard?

23 A. I don't think -- to be honest

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1 with you, no. I -- I -- I'm not aware of  
2 any credit checks they may do. I mean,  
3 it's pretty well a given, that if they're  
4 going to go out and -- and purchase or  
5 lease a -- a van, that -- that whoever  
6 they're doing it through, will do some  
7 type of credit history on them to see if  
8 they qualify them to -- to do that. But,  
9 no, we don't necessarily do a -- a credit  
10 check of any type.

11 Q. What would happen if someone  
12 could not, for some financial reason,  
13 procure his own transportation truck for  
14 the contract? What steps would be taken  
15 by FedEx?

16 A. Well, obviously, he can't be a  
17 contractor if he can't have a van. There  
18 are some instances where they've gone  
19 out, and -- and this is hypothetical  
20 situations where they could go out and  
21 lease a van from another contractor who  
22 has, you know, additional equipment.

23 Q. Okay.

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1 A. But, no, not -- I mean, if you  
2 can't -- that's part of the business, and  
3 that's pretty well -- that -- at these  
4 informational sessions, there's a couple  
5 of things to get people to stand up and  
6 walk out at some time during the --  
7 during the session, and -- and that would  
8 be, no, you're not employees, you're an  
9 independent contractor, and you have to  
10 have the ability to -- to lease or  
11 purchase a -- a 35 to \$50,000 van.

12 Q. Okay. You said there were  
13 several things or other things that would  
14 make someone get up and walk out of an  
15 informational session. What would  
16 another one be?

17 A. Well, that -- that's the --  
18 the primary one. Some -- when they -- a  
19 lot of people, no matter what the ad may  
20 say, have some visions of employee-type  
21 versus independent contractor. You know,  
22 and -- and at some point in time, and  
23 I've done probably, maybe, four to five

1 sessions myself, but I've been in on  
2 about 20 to 25 sessions where the  
3 recruiters did them. Sometimes they'll  
4 ask you to come as a senior manager to  
5 come and sit in and answer any questions.

6 But I do try and -- I don't  
7 necessarily paint a rosy picture, as far  
8 as the type of work they're getting into,  
9 because it's -- it's not fair to them,  
10 and it's really not fair to the company  
11 to -- to point out that -- or to paint  
12 this big rosy picture of lots of money  
13 and, you know, no pressure and no hours  
14 and, you know, you're off on weekends.  
15 And, so, I usually pretty well tell them  
16 up-front, be it a temp or be it a  
17 potential contractor, that, you know,  
18 this is a pretty tough job.

19 I mean, it's -- it's very  
20 demanding. If you want to go and grow  
21 and as a entrepreneurial -- make a lot of  
22 money, there's a potential there to add  
23 on trucks. All of those things are

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1 potentials with that kind of growth, but  
2 when it comes down to the actual work,  
3 day-to-day coming to work, it's -- it's  
4 pretty high pressure, and I don't really  
5 think twice about sometimes saying that  
6 to people.

7 Q. Do you specifically recall the  
8 informational session in early January of  
9 2005?

10 A. I don't -- I mean, it -- I  
11 went to several at the Holiday Inn, and  
12 like I said, I -- I know that, at some  
13 point in time, either before or after,  
14 that Charlie and his wife came up and --  
15 and asked me some questions because they  
16 were interested. The specifics, it just  
17 depends on what questions you ask.

18 Q. Okay. And did you -- did you  
19 give this informational session alone, or  
20 did you have one of the --

21 A. No, it was just me.

22 Q. Just you?

23 A. Yes.

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1 Q. Okay. And, if you know, how  
2 many informational sessions have you  
3 given in Montgomery at the Holiday Inn?

4 A. Four to five.

5 Q. Okay. You said a moment ago  
6 that it's hard work being a contractor,  
7 but you have to have an entrepreneurial  
8 spirit, and there's a lot of money to be  
9 made.

10 A. Yes.

11 Q. If you know, what do the  
12 contractors doing Home Delivery in the  
13 Montgomery area generally make?

14 A. If somebody got me to the side  
15 and said, look, give me -- just give me a  
16 ballpark figure of what these guys make.  
17 I would tell somebody probably in the low  
18 50's, but I would also tell them that's  
19 gross. There are still expenses there  
20 to -- to -- that you got to pay. So, I  
21 mean, gross is probably -- for -- for the  
22 average, for a -- a contractor, is in the  
23 mid to low 50's.

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1 Q. Okay. And --

2 A. And -- and, you know, what --  
3 and -- and I would have to -- you know,  
4 you'd have to look at it and see. If --  
5 if -- even if you wanted to -- I think  
6 the actual -- I don't even -- I don't  
7 even know if the actual example they give  
8 during some of these informational  
9 sessions give a gross figure. It may.  
10 It usually gives them just a -- an  
11 itemized look at how a contractor gets  
12 paid on stops and packages, but -- yeah,  
13 I -- I would tell them low to mid-50s.

14 Q. And that would be --

15 A. Gross.

16 Q. You got gross for --

17 A. One truck.

18 Q. One truck and one guy?

19 A. Yes.

20 Q. Okay. And then, his expenses  
21 would be his fuel, right?

22 A. Uh-huh.

23 Q. Yes?

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1 A. Yes. Lease payments.

2 Q. Insurance?

3 A. They -- they deduct insurance,  
4 all those type of things.

5 Q. They deduct insurance?

6 A. Yeah, I think they have -- I  
7 think they -- they charge them like ten  
8 bucks a paycheck or something for some of  
9 the insurance that they pay. They have  
10 to have in -- we have liability  
11 insurance.

12 Q. On the person?

13 A. On the -- on the -- on the --  
14 on the van itself that -- that the  
15 company oversees for them. But  
16 there's -- when they're running it on the  
17 weekends by themselves, empty or to do  
18 another business, there's -- there's  
19 other insurance that they have to --  
20 to -- to pay for. And, again, this is  
21 one of those where I go I don't  
22 necessarily know the exact amount, but  
23 they do take out some insurance on -- on

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1 these guys.

2 Q. Okay. Now, what -- that's  
3 insurance on the vehicle?

4 A. Correct.

5 Q. Okay. What about insurance on  
6 the person --

7 A. No.

8 Q. -- the contractor himself?

9 A. No.

10 Q. None is taken out by the --

11 A. Uh-huh.

12 Q. -- company?

13 A. (Shaking head negatively.)

14 Q. Okay. That's a no?

15 A. That's a no.

16 Q. Okay. All right. Regarding  
17 the Holiday Inn informational session  
18 that you gave in January of 2005, other  
19 than Charlie and his wife, Debbie, did  
20 anyone else contact you with an interest  
21 in becoming a contractor in the  
22 Montgomery area?

23 A. They run together, but to



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1 my -- to the best of my knowledge, there  
2 was one other gentleman there with his  
3 wife that -- I think was working for  
4 Coca-Cola at the time, and they -- I  
5 think it was this session.

6 Q. Okay.

7 A. He was very interested in  
8 doing it, running his own truck, and his  
9 wife was -- was -- was a little nervous  
10 about that kind of an investment, but,  
11 yeah, I -- I remember one other couple,  
12 and I'd have to look back and see. I'm  
13 sure we got, maybe, a temp or two out of  
14 the deal but not necessarily contractors.

15 Q. Okay.

16 A. Potential contractors.

17 Q. For giving the informational  
18 sessions for people who become interested  
19 in and, ultimately, get into the program,  
20 do you get any kind of compensation or  
21 commission for new contractors that are  
22 brought in?

23 A. Me, myself?

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1 Q. Yes.

2 A. Oh, no.

3 Q. Okay. Does the operation, the  
4 Montgomery operation, give any special  
5 credit for bringing in new contractors?

6 A. No.

7 Q. Okay.

8 A. There used to -- and I will  
9 say this: There used to be a referral  
10 program for other contractors to bring  
11 in, but I don't even know if they still  
12 have that.

13 Q. Okay. Other than that one day  
14 at the informational session, did you  
15 ever have any direct contact with Charlie  
16 Thornton at any other time?

17 A. Yeah.

18 Q. Okay. When did you next see  
19 him, then?

20 A. I don't remember.

21 Q. The best you can recall.

22 A. A week or two later.

23 Q. Okay. And what was that in

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1 regard to?

2 A. I think really coming in just  
3 to talk more seriously about it, get the  
4 application process going, kind of talk  
5 more in detail about what the job  
6 involved. At some point, and I -- I keep  
7 looking at Charlie. I think Joe kind of  
8 started helping him too. Joe McConnell  
9 was the -- the former ops guy in  
10 Birmingham --

11 Q. Yes.

12 A. -- trying to get him set up as  
13 quick as possible. We had a training  
14 session going on in Birmingham for  
15 potential contractors. I'm pretty  
16 sure --

17 MR. THORNTON: Can I --

18 MR. NELMS: No.

19 A. -- Charlie came -- came back  
20 and forth two or three times for the  
21 physical, and for the -- any additional  
22 paperwork that we had forgotten to get or  
23 didn't get or lost or whatever. So, I --

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1 I know I had two or three more times  
2 talking with -- with Charlie.

3 Q. Okay. And was that at your  
4 office?

5 A. Yes.

6 Q. Okay. Did his wife, Debbie,  
7 show up at that second --

8 A. I don't recollect.

9 Q. Okay.

10 A. I don't remember.

11 Q. Fair enough. And did he, on  
12 that day, fill out an application?

13 A. When he -- at the  
14 informational session or when he came to  
15 the facility?

16 Q. I guess we're talking about  
17 the second time you saw him, the time  
18 when he came to the facility?

19 A. At that time, it was  
20 automated, and I'd have to look and see,  
21 but I'm pretty sure we would have  
22 probably said, look, sit down here, and  
23 let's get this going. I know we had a



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1 lot of problems early on when they  
2 automated that, as far as getting them  
3 to -- to do right, and we had numerous  
4 times where -- and probably Charlie could  
5 tell you, where he had to come back  
6 because something didn't get done right  
7 or whatever.

8 But, yeah, I would have  
9 probably that day said, you know, sit  
10 down, and let's get this process going so  
11 we can get physicals and background  
12 checks and set you up for -- for  
13 training.

14 Q. Okay. And you said the  
15 training was in Birmingham?

16 A. Birmingham, yeah.

17 Q. Okay. And describe the  
18 training for me.

19 A. It's a structured program,  
20 and -- and going into -- let me --  
21 there's two different types of training  
22 programs -- really three.

23 When we were going into

1 to -- I mean, you obviously have to  
2 qualify.

3 MR. SPOTSWOOD: Okay.

4 A. And when you drive, I mean --  
5 I think Charlie will pretty well tell  
6 you, that -- that the -- on -- on either  
7 side, but especially on the potential  
8 contractor side, they put them through an  
9 obstacle course forwards and backwards.

10 And if, at any point in time, you knock  
11 over one or two, or I don't know what the  
12 magic number is, I mean, you're out of  
13 the program period. But there's --

14 Q. Let me interrupt you. So, in  
15 that respect, Bob's right, that's  
16 qualifying.

17 A. Correct.

18 Q. You know, if you're not  
19 physically able to move the packages --

20 A. Right.

21 Q. -- or even if you --

22 A. I think you -- I don't think.

23 I know. We -- we even, for -- for --

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1 Christmas, usually around September-ish,  
2 the company will say, okay, let's --  
3 we're going to set up a three-day  
4 training program for people that we know  
5 for a fact are just going to be potential  
6 temporary employees to get us through the  
7 holidays. And that can be a -- a -- a  
8 one or two-day session of just sitting  
9 there going over procedures and paperwork  
10 and, then, taking them out and doing a --  
11 a -- a -- a driving test and/or obstacle  
12 course, depending on how formalized it is  
13 for the temp employees, potential temp  
14 employees.

15 MR. SPOTSWOOD: Can I  
16 interrupt a second. This is terminology.  
17 This is a qualification procedure, is it  
18 not? That's what it's called, you have  
19 these driver qualification courses?  
20 You're using the terminology "training,"  
21 and I'm just -- is it --

22 A. Well, there -- there -- well,  
23 when you bring in a temp, you do have

1 for -- for package handlers and people  
2 like that, we have a 50-pound lift test  
3 where we make sure they can -- can lift  
4 up to 50 pounds though.

5 Q. Right.

6 A. You -- you qualify for this.  
7 And the -- and the temps, it's -- it's a  
8 matter of bringing them in, doing --  
9 going over paperwork, routes, and many  
10 instances, we let them drive or ride with  
11 a contractor for a day or two, but it's  
12 kind of the type of person -- it -- it  
13 would be great if we could bring in  
14 people who would just be temp for six or  
15 eight months and really know the business  
16 and yet have the ability to give them a  
17 van. I mean, that's the perfect  
18 scenario.

19 Q. Right.

20 A. But for a known potential  
21 contractor that -- that we know really  
22 wants to get in the business, we think or  
23 we know that he's got the financial

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1 ability to go out and -- and purchase or  
2 lease a van and he's -- and he's really  
3 the type of person, we think from a  
4 business perspective, from a -- you know,  
5 those go through -- and that's the only  
6 thing you can go through, the eight-day  
7 qualification course or training course  
8 or whatever you want to call it, to  
9 become potentially a contractor.

10 Now, when they come out of  
11 that training program -- and let me be  
12 very clear about this --

13 Q. Yeah.

14 A. -- they don't necessarily have  
15 a contract waiting on them, okay?

16 Q. Right.

17 A. But they are -- they are --  
18 they are potential contractors that we  
19 know or -- in discussions with them, they  
20 want to get into the business. If a  
21 contract's available, we've already got  
22 something spotted for him or, in many  
23 instances, they just want to come out.

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1 They know they got to run for -- with  
2 a -- as a temp or run with another  
3 contractor. Now, some of these  
4 contractors can pay these guys to run  
5 other trucks for them.

6 Q. Right.

7 A. And in that particular  
8 instance, they're actually employed by  
9 the contractor.

10 Q. I want to ask you one question  
11 real quick, and then, if it's okay with  
12 everybody, we'll take a break.

13 A. Yeah.

14 Q. You said "automated system," a  
15 while ago, and I think I understand what  
16 you're saying, but I'm going to ask you  
17 to describe for me what you mean when you  
18 say "automated."

19 A. My experience, from 2001 up  
20 until this happened, was it was a lot of  
21 paperwork, just manual, okay?

22 Q. Handwritten on paper?

23 A. Handwritten on paper, then,

1 having to send all of these files to  
2 different people and, oops, well, you  
3 didn't do this, or I never got it or  
4 whatever. So, I'm pretty sure it was  
5 through PeopleSoft, FedEx contracted out  
6 for the whole company and set up a -- a  
7 PeopleSoft sys -- system where literally,  
8 from the time a person comes in, applies  
9 to become a dock worker or an independent  
10 contractor, whatever it may be, it  
11 captures his application, and there's  
12 different checkmarks along the way where  
13 you approve it, and then, it might send  
14 off for the -- the -- the driver -- or  
15 the background check and the driving  
16 history and all that stuff. And, all  
17 along the way, there's different stages  
18 where a person has to come in and approve  
19 it, but it's all automated.

20 Q. Paperless?

21 A. Paperless.

22 Q. Okay.

23 A. Virtually paperless, other

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1 than, like I said, the -- some of the  
2 stuff they have to sign. That starts the  
3 file.

4 Q. Okay. If it's all right with  
5 everybody, I need to take a break.

6 (Said deposition was in recess  
7 at 10:46 a.m. until 10:49  
8 a.m., after which the  
9 following occurred:)

10 Q. (BY MR. NELMS:) All right.  
11 We were talking about instances where you  
12 met with Charlie, and you've told us  
13 about the informational session, and  
14 then, you told us, several weeks later,  
15 he came back into your office, and you  
16 told us about that. Have you -- can you  
17 remember any other instance of meeting  
18 Charlie Thornton?

19 A. Truthfully, no. I mean,  
20 I'm -- I'm sure, at any given point in  
21 time when Charlie came into the office,  
22 he and I would talk about something. I  
23 mean, you know. What? Is this a trick

CHARLIE THORNTON  
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT  
April 12, 2006

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1 question?

2 Q. No. Sometimes the question is  
3 just a question, you know.

4 A. I -- I -- I know, from --  
5 from -- from firsthand experience, that  
6 our processing of paperwork, be it  
7 automated or whatever, brought people  
8 back many times to get something that we  
9 failed to get the first time or the  
10 second time or the third time, and I  
11 can't see Charlie not walking through the  
12 door and sticking his head in and us  
13 talking about something, so --

14 Q. Were you having problems with  
15 your automated system?

16 A. From a training perspective,  
17 okay. In many instances, because we were  
18 not hiring a lot of people at that time  
19 and/or processing a lot of drivers at  
20 that time, it was an ongoing learning  
21 experience for us, as far as making sure  
22 everything was done correctly.

23 Q. Okay.

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1 A. So, to say were we having  
2 trouble with the system as a -- as a  
3 company, they'd have to answer that. We  
4 in Montgomery, trying to make sure we did  
5 everything since we had not done it a  
6 lot, sure, I'm -- we -- we at times,  
7 probably didn't -- didn't do things  
8 correctly or had to get him to come back  
9 to get -- you still -- trust me, you  
10 still had a checklist of forms that you  
11 had to have before you could move  
12 forward.

13 So, if you want to say, did we  
14 have problems, yeah. It meant people  
15 having to come back, you know, a second,  
16 third and fourth time to -- to get what  
17 we didn't get the -- the last time they  
18 were there.

19 Q. I think I completely  
20 understand what you're saying --

21 A. Right.

22 Q. -- but sometimes I've got to  
23 make a record. So, if a --

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1 A. Right.

2 Q. -- question seems silly or  
3 not -- when you say you had a "checklist"  
4 of things you had to do, what are you  
5 referring to specifically?

6 A. Well, there -- there -- when  
7 you called up the system, as I remember  
8 it, okay, it still pretty well mirrored  
9 our hiring checklist for paperwork  
10 needed, okay, for an independent  
11 contractor or temp or whatever. But  
12 because it was now on a screen versus  
13 that checklist sitting there that you had  
14 in the folder when you first started that  
15 and you were just checking it off as you  
16 went along, in many instances, or in some  
17 instances, you would get, oh, man, I  
18 forgot to do that. And then, you'd have  
19 to call up whoever and say, you know,  
20 what, I forgot to get this from you. The  
21 next time you're close by, could you come  
22 by and sign this?

23 Q. I got you. I'm going to ask

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1 you a couple of little, quick specific  
2 questions, and then, I think I'm  
3 finished. Who -- at what point during  
4 this process would the decision be made  
5 to issue uniforms to a potential  
6 contractor?

7 A. I don't think anybody ever  
8 came through the door that was going to  
9 drive for us that we didn't give them --  
10 give them some uniforms to start out  
11 because, if they were going to drive as a  
12 temp, ride on a truck, anything  
13 pertaining to delivering packages out  
14 there in the public that we kept -- tried  
15 to keep caps and shirts and -- not pants  
16 because we never knew what their waist  
17 size was. Now, to -- to purchase a  
18 uniform, I know this is going to sound  
19 stupid, but at any given point in time,  
20 as long as we knew he was driving, he  
21 could come in and request us to order him  
22 some uniforms any time he wanted to.

23 Q. Okay. Are there -- was the

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1 Montgomery facility in contact with the  
2 drivers by radio?

3 A. Cell phones, if they had one.

4 Q. Okay.

5 A. Going to sound silly to you,  
6 but as an independent contractor, over  
7 time they found out they had to have some  
8 form of communication, but they could go  
9 out there and deliver all day long, and  
10 as long as they were getting their  
11 packages delivered and everybody was  
12 happy, they really didn't have to say one  
13 thing to us or -- or talk to us.

14 Q. Okay. I -- I know from  
15 experience because our FedEx guy comes in  
16 here every day. He's got a computer  
17 wand.

18 A. They've got -- they've got --  
19 yes, now -- now, when you talk about  
20 communication, they have scanners that  
21 record every -- he does his bar code  
22 scan, and -- and in that bar code, it's  
23 got the -- the time -- it's

1 A. Star II, Roman numeral one,  
2 one.

3 Q. Were the Star II scanners  
4 specifically assigned to the independent  
5 contractors?

6 A. Specifically assigned?

7 Q. Well, I know it's not a good  
8 question. What do you mean by that? I  
9 don't know.

10 An independent contractor, did  
11 he have one Star II scanner assigned to  
12 him that he kept with him at all times?

13 A. We -- they all wanted to keep  
14 their same scanner, let me put it that  
15 way. And, in many instance, we would  
16 type a name or -- or a tape that we would  
17 put on there so they knew, when they  
18 walked in in the morning, that that was  
19 the scanner that they used the day  
20 before. And for the main reason of that  
21 most of those scanners would hold that  
22 data from the previous day so that when  
23 they started up that day, it would call

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1 automatically -- it -- it shows the time,  
2 obviously, the date. Within the bar  
3 code, it shows the address of the  
4 package. Shows how many packages he  
5 delivered. We had over -- we had  
6 overview within our system to see how  
7 that driver was doing during the day, but  
8 we had no means of communication at that  
9 time, and I don't know if it's changed,  
10 where we could ever even send them  
11 anything. You know, I think in the  
12 future, they were talking about trying to  
13 get that ability to -- to -- through  
14 radio frequency be able to communicate  
15 with them through those scanners.

16 Q. So, it's a one-way  
17 communication?

18 A. Yeah.

19 Q. Okay. Were -- what do you  
20 call those?

21 A. I think they were called Star  
22 II scanners.

23 Q. Okay.

1 up ending mileage and that type of stuff.

2 So, I guess to a certain  
3 degree, yeah, they were assigned a  
4 scanner, and they actually paid a -- a  
5 weekly charge for the use of those  
6 scanners. As a contractor, independent  
7 contractor. Now, temps were a whole  
8 different ball game. They would -- they  
9 would get whatever was left over,  
10 unfortunately.

11 Q. So, a temp is actually an  
12 employee and not an independent  
13 contractor?

14 A. Correct. We're paying him.

15 Q. Is it on the hourly rate or --

16 A. Uh-huh, yeah, FedEx. I  
17 done -- I done forgot what the hourly  
18 rate was, but they got paid by the hour.

19 Q. Okay. In regard to the trucks  
20 that contractors would have, do you know  
21 what process the contractor would have to  
22 go through in order to obtain a FedEx  
23 truck?



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1       **A.** In most instances, the way I  
2       tried to at times talk with -- with -- I  
3       would say it's really nothing more  
4       than -- you could go to your local bank.  
5       You could go to your local loan shark,  
6       whatever it may be, because all you were  
7       doing was -- was leasing a vehicle or  
8       purchasing a vehicle.  
9       We had, to my knowledge,  
10      either two or three lending or leasing  
11      companies that we recommended because, in  
12      many instances, they would -- they would  
13      take inventory. FedEx would purchase it  
14      so that they had X amount of vehicles  
15      every year available for new -- new  
16      contractors coming on board, and these  
17      lenders or leasing companies would have  
18      visibility to that inventory, and in many  
19      instances, it was already with the FedEx  
20      decal spec'd exactly the way -- or in  
21      most instances, the way FedEx would want  
22      the truck to be spec'd.  
23      And so, we would recommend or

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1       tell them that there was two or three  
2       different companies they could go through  
3       to qualify for these vans, but that, at  
4       any given time if they located -- or in  
5       talking with them wanted to purchase a  
6       van with their own -- own private lender  
7       or personal, you know, they had the  
8       option to do that.  
9       **Q.** Okay. Were -- were the  
10      vans -- if you know, were the vans or the  
11      trucks always -- was the contractor  
12      required to buy it through Federal  
13      Express, though? Did the truck, itself,  
14      have to come from Federal Express?  
15      **A.** No.  
16      **Q.** Okay. So, a guy could go to  
17      the local Dodge dealership and pick up --  
18      **A.** Yes.  
19      **Q.** -- a truck that met Federal  
20      Express specifications?  
21      **A.** Uh-huh.  
22      **Q.** Yes?  
23      **A.** Yes.

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1       **Q.** Okay. Sorry. I know  
2       that's --  
3       **A.** I know.  
4       **Q.** -- a very particular -- I  
5       don't think I could do it either.  
6       All right. Is there a  
7       particular procedure within FedEx that  
8       assigns or allows a potential contractor  
9       to purchase a vehicle?  
10      **A.** Can you be a little --  
11      **Q.** Is there an authorization  
12      process that a contractor has to go  
13      through in order to obtain a vehicle?  
14      **A.** For FedEx itself?  
15      **Q.** Yeah.  
16      **A.** It -- yeah. I mean, along the  
17      way, you -- you would -- yes, there is a  
18      process that he has to go through.  
19      **Q.** Describe that process for me.  
20      **A.** Well, at any given point in  
21      time, you know, especially early on,  
22      when -- when you're talking to a  
23      contractor or a potential contractor and

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1       you -- and you give him the -- the  
2       information on him having to go out and  
3       buy or lease a vehicle, number one, at  
4       any given point in time, he can contact  
5       very early on to see what the costs are,  
6       does he qualify creditwise, you know, as  
7       far as that's concerned.  
8       The assignment of a vehicle to  
9       a new contractor is supposed to come at  
10      the time the contract is officially  
11      signed, and he is, that day, a  
12      contractor, and then, that -- that  
13      vehicle, in a perfect world, is  
14      released -- it's either on-site, or it's  
15      released from wherever it's being held  
16      and delivered to the local facility where  
17      that contractor is.  
18      I don't know if that's giving  
19      you the information you want or if --  
20      **Q.** I don't know what the answer  
21      is, to be honest with you. All right.  
22      **A.** I mean, a guy could go out --  
23      I mean, we -- you know, a guy could go



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1 out, and like you said, he could buy a --  
2 -- a-- what I call a straight truck.  
3 It's got a box on the rear of it in --  
4 in -- instead of a FedEx step van, and --  
5 but if he was going to do it, he knows  
6 that he's got to make sure that -- and  
7 we'll give him a copy of what the specs  
8 are and what it must have on it and  
9 what -- within -- you know, they don't  
10 have to absolutely buy a brand-new one.  
11 They can buy one that's two, three, four  
12 years old. I think, at one point, it  
13 used to be newer than five years old, but  
14 then, he's got to do all the decals.  
15 He's got to do all those things. But  
16 yeah, he could -- he could walk in and  
17 go, I'm just going to go buy me a van  
18 right now just in case. And -- but he's  
19 on his own, when he does that, you know.  
20 I mean -- it's kind of two different  
21 scenarios I'm trying to give you there.  
22 Q. No, I understand. I  
23 understand. Other than what we've

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1 already talked about today in this  
2 deposition, and don't tell me about any  
3 conversations, please, that you've had  
4 with Mr. Spotswood or anyone with his  
5 office --  
6 A. Yes.  
7 Q. -- have you had any  
8 conversations with anyone at FedEx  
9 regarding this lawsuit?  
10 A. No.  
11 Q. Okay. And you are  
12 currently -- consider yourself not an  
13 employee of FedEx, is that correct?  
14 A. Correct.  
15 Q. Okay.  
16 A. I'm retired.  
17 Q. Okay. What are you doing with  
18 yourself? You're too young to be  
19 retired.  
20 A. I'm -- I told Bob I'm a  
21 consultant. By the way, you'll get my  
22 bill.  
23 Q. You send it on.

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1 A. No, I -- I've -- I graduated  
2 from Tennessee, and I grad -- and I -- I  
3 was -- I majored in transportation  
4 logistics, and kind of part of retirement  
5 was just, you know, to do my own thing.  
6 So, I'm -- I'm a third-party logistics  
7 consultant right now for a couple of  
8 companies, and if y'all happen to know  
9 anybody that's got the money, I got the  
10 time.  
11 Q. I actually did know him. I'll  
12 think about that.  
13 MR. NELMS: I can't think of  
14 anything else, Bob, but if you'll let me  
15 talk to Charlie for just a minute -- or  
16 you can go ahead and ask him, and then,  
17 I'll talk to Charlie in a minute, and if  
18 I have something else, I'll follow up  
19 with it, but I can't think of anything --  
20 MR. SPOTSWOOD: Why don't you  
21 figure out if there's anything else you  
22 want to ask --  
23 MR. NELMS: Okay.

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1 MR. SPOTSWOOD: -- and then,  
2 I'll go ahead and ask a few questions  
3 while -- after you come back and let me  
4 know if you've got anything else.  
5 MR. NELMS: Okay. Great.  
6 Come on, Charlie. Let's talk just a  
7 second.  
8 (Said deposition was in recess  
9 at 11:03 a.m. until 11:11  
10 a.m., after which the  
11 following occurred:)  
12 MR. NELMS: I don't have  
13 anything else.  
14  
15 EXAMINATION BY MR. SPOTSWOOD:  
16 Q. All right. Let me ask a few  
17 questions here.  
18 Mr. Trott, is it correct that  
19 FedEx Ground and FedEx Home Delivery are  
20 operating divisions of the Defendant in  
21 the case, FedEx Ground Package Systems,  
22 Inc.? In other words, they are  
23 functioning, operating divisions within

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1 the same --  
2 A. Yes.  
3 Q. -- corporate entity?  
4 A. Yes.  
5 Q. Okay. And for a period there,  
6 were you -- I took it, from your prior  
7 testimony, that you were acting as senior  
8 manager in Montgomery for both the FedEx  
9 Ground operations and the FedEx Home  
10 Delivery operations during this  
11 transition period between Mr. McConnell  
12 and when Kent Gastineau came?  
13 A. That would be true.  
14 Q. Okay. And you -- you couldn't  
15 remember Kent's last name. It's  
16 Gastineau.  
17 A. All right.  
18 Q. You said you retired from  
19 FedEx in March of 2005. Were you  
20 actually working during that last couple  
21 of weeks of March, or were you taking  
22 vacation?  
23 A. I actually took -- yeah, I

1 Q. What do you recall about  
2 telling him?  
3 A. I know we were having a lot of  
4 problems at that time with some of the  
5 routes, like I said. And -- and if  
6 Charlie and/or his wife came up to me  
7 after the meeting, and I'm sure -- I -- I  
8 know they did because I do remember  
9 talking with them. I know we had Troy  
10 contract wide-open at that time, and  
11 probably we discussed that contract being  
12 open.  
13 Q. Okay.  
14 A. And then, I would have, if he  
15 asked me, any other areas, I probably  
16 would have said with growth, the Wetumpka  
17 area or that Elmore County area, Autauga  
18 County with growth. We might potentially  
19 have some growth opportunities coming up,  
20 and -- and since I really and truthfully  
21 was kind of being off-the-cuff, I  
22 probably -- might have told him we were  
23 having some problems with a contractor in

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1 think the official date had to change a  
2 couple of times. I actually took my last  
3 four weeks or five weeks on vacation,  
4 so -- now, during March, no, I would not  
5 have been there. I think the actual  
6 retirement day is like the 1st of April  
7 or 7th of April, if you looked at my  
8 actual retirement date because I was on  
9 vacation.  
10 Q. So, you would not --  
11 A. I was virtually --  
12 Q. -- have been --  
13 A. I was virtually --  
14 Q. -- at the facility during  
15 March?  
16 A. I was not even there during  
17 March.  
18 Q. Okay. At the informational  
19 session that we've been talking about,  
20 did you talk to Mr. Thornton about what  
21 routes might or would be available at  
22 that time?  
23 A. Yes.

1 Autauga County or Elmore County that  
2 could lead to something coming open,  
3 but -- I mean, I'd -- I'd done it enough  
4 with Ground to know that you stick to --  
5 you stick to what's open, and then, with  
6 growth and attrition, there's always  
7 opportunities there.  
8 And I -- and I -- and like I  
9 said, I -- I don't remember verbatim  
10 everything, but I just remember that he  
11 and his wife were very open and nice, and  
12 we were just talking about potential for  
13 the future.  
14 Q. Did you believe to be true  
15 everything that you did tell Mr.  
16 Thornton?  
17 A. Yes.  
18 Q. Did you have any intent to  
19 injure him or mislead him in any way?  
20 A. No.  
21 Q. Did you ever tell Mr. Thornton  
22 that he, in fact, would get and would be  
23 entitled to a route with -- a route

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1 contract?

2 A. No.

3 Q. I want to show you Exhibit --  
4 we labeled these letters, and these are  
5 just continuations of exhibits that are  
6 in -- they actually are the exhibits from  
7 Mr. Thornton's deposition. This one's  
8 marked Defendant's Exhibit V as in  
9 Victor. Can you tell me what that is?

10 A. Well, it's -- it's the P & D  
11 Contractor Business Guide which, in many  
12 instances, are issued to the managers.  
13 It's a working guide we have within the  
14 office, and I think -- I'm going to be  
15 honest with you. I don't know -- I don't  
16 know if they give them a copy of this at  
17 their actual training, but it's kind of  
18 the contract itself that -- that kind of  
19 leads them to learn and know and  
20 understand what the -- what all is  
21 entailed in their contract.

22 Q. The potential contract?

23 A. Yeah, potential contracts.

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1 And -- and -- and -- and I will tell you  
2 this, whether -- well, nevermind.

3 Q. Well, what -- what is the  
4 procedure that was generally followed by  
5 you with respect to educating a potential  
6 contractor about this document?

7 A. When it actually came time,  
8 and -- and -- and I will say this, and  
9 you guys will have to ask Charlie this.  
10 Usually, during the training session,  
11 there was a day where they talked, and I  
12 don't know how long it was, but they  
13 talked about the contract itself and how  
14 it worked and specific items and --  
15 and --

16 Q. Right.

17 A. -- the ins and outs of how a  
18 contract worked for an independent  
19 contractor.

20 But, in what instances I had  
21 where new contractors -- and there wasn't  
22 a lot of them that came on board with  
23 Ground, under the old process and/or

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1 under the new automated process, you were  
2 always told, and I agreed -- and I agree  
3 this was a no-brainer that you -- when  
4 you printed it out, your -- it was very  
5 smart to make a copy of it and have them  
6 go home and at least review it for 24 to  
7 4 -- depending upon how big a hurry they  
8 were in, 24 to 48 hours, so that, when  
9 they came back in, you -- you know, they  
10 could ask specific questions as to what  
11 this particular area of the contract  
12 meant before they signed it.

13 And that was -- I would have  
14 to say that's not something I came up  
15 with. In most instances, all managers,  
16 as -- might even have been on the  
17 checklist. You -- you had to check off,  
18 and I'm doing it from memory, that you  
19 had -- you know, had sat down and  
20 reviewed the contract with that  
21 individual contractor prior to him  
22 signing it.

23 Q. Okay. I've just got a couple

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1 of documents I want to see if you can  
2 authenticate for me. These are from  
3 Defendant's Exhibit C to Mr. Thornton's  
4 deposition. The first one is labeled FXG  
5 0000-13. Can you tell me what this is?

6 A. That would have -- that is one  
7 of the forms that we had them fill out  
8 that has to be for DOT purposes, part of  
9 their file for --

10 Q. And is this for Charlie?

11 A. Yeah.

12 Q. And it's called Driver's  
13 Annual Certification Motor Vehicle  
14 Violations?

15 A. That was -- that -- that  
16 initiates or goes in their file, and  
17 really, it's done every year. They have  
18 to fill it out. And that's where I was  
19 talking about having to report any  
20 potential violations on their personal  
21 vehicle and/or their FedEx vehicle. And,  
22 in this particular instance, since  
23 they're applying for a job, he would

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1 still supposedly have to report all of  
2 his personal violations.  
3 Q. All right. And did you sign  
4 this on the bottom?  
5 A. That would be me.  
6 Q. And on what date did you sign  
7 it?  
8 A. 1/14 of '05.  
9 Q. Okay.  
10 A. Just as information, that's  
11 that checklist where, if you didn't dot  
12 your I's and cross your T's, you might  
13 refer back to it and have to get them  
14 back in to do stuff.  
15 Q. You're referring to --  
16 A. And I don't know if this is  
17 computer-generated or whether it's  
18 something we -- you know, it looks like  
19 this one's typed out.  
20 Q. I think it's  
21 computer-generated.  
22 A. Right.  
23 Q. What you're referring to is

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1 FXG, a bunch of zeros --  
2 A. Right.  
3 Q. -- 22?  
4 A. And, as it carried you through  
5 the process, you can see these are little  
6 Xs or dots.  
7 Q. Right.  
8 A. And you really -- until you  
9 got to the end, you couldn't do anything,  
10 until you had done every -- you know.  
11 Q. Right. Okay. Let me flip  
12 over here to pages 27 and 28. Can you  
13 tell me what those two pages are?  
14 A. That is a record of road test  
15 that was given apparently in Birmingham  
16 by Omar Newman where they went through  
17 the -- I don't know if they issued this  
18 after they went through the hazardous --  
19 hazardous -- through the driving course  
20 or whether they actually went out and did  
21 a road test with them, but --  
22 Q. Okay. And then, what is the  
23 document here, exhibit -- this is for Mr.

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1 Thornton, obviously?  
2 A. Right.  
3 Q. What is Document 29  
4 specifically?  
5 A. That's a card apparently they  
6 issued to him showing that he is -- he's  
7 been certified, and he passed his road  
8 test.  
9 Q. Okay.  
10 A. Part of their training, Smith  
11 systems.  
12 MR. NELMS: And that's  
13 Document 30.  
14 Q. Document 30 is -- this is  
15 called on the top of it Advanced Driving  
16 Training Safety Seminar. This is the  
17 classroom or the several day  
18 qualification program that you described  
19 previously?  
20 A. Correct, and if I'm not  
21 mistaken, you can ask Charlie, if they do  
22 not pass that, they don't move forward in  
23 the training. That looks like the same

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1 thing.  
2 Q. Right. Document 31 appears to  
3 be the same thing as Document 30.  
4 Document 32 --  
5 A. That's a different form.  
6 Q. That's -- that says -- that's  
7 a certificate for the on-road format  
8 apparently for this seminar?  
9 A. (Nodding head affirmatively.)  
10 MR. NELMS: You're referring  
11 to 32?  
12 MR. SPOTSWOOD: Yeah,  
13 Exhibit 32. Correct?  
14 A. Yes. Strength test.  
15 Q. Right.  
16 MR. NELMS: 34.  
17 (Off-the-record discussion.)  
18 MR. SPOTSWOOD: That's all I  
19 have.  
20 MR. NELMS: Okay.  
21  
22 FURTHER THE DEPONENT SAITH NOT  
23

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(Said deposition was concluded  
at 11:23 a.m. on the 12th day  
of April, 2006.)

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C E R T I F I C A T E

STATE OF ALABAMA)  
JEFFERSON COUNTY)

I hereby certify that the  
above and foregoing deposition was taken  
down by me in stenotypy, and the  
questions and answers thereto were  
reduced to typewriting under my  
supervision, and that the foregoing  
represents a true and correct transcript  
of the deposition given by said witness  
upon said hearing.

I further certify that I am  
neither of counsel nor of kin to the  
parties to the action, nor am I in  
anywise interested in the result of said  
cause.

COMMISSIONER - NOTARY PUBLIC